

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6633

BILL NUMBER: HB 1154

NOTE PREPARED: Mar 16, 2010

BILL AMENDED: Mar 3, 2010

SUBJECT: Marion County Courts.

FIRST AUTHOR: Rep. Pryor

FIRST SPONSOR: Sen. Schneider

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Marion County Commissioners* -- It provides that a commissioner appointed in the Marion County courts has all of the powers and duties prescribed for a magistrate. It specifies that if a commissioner appointed in Marion County is appointed as a magistrate, the salary of that magistrate shall be paid by the state in the same amount as other magistrates are paid. It provides for the allocation of appointments of commissioners in Marion County.
- B. *Infraction Judgment* -- It provides that in addition to any judgment otherwise entered in Marion County for a traffic violation constituting an infraction, an additional judgment amount of not more than \$35 may be entered for the traffic violation. It specifies that this additional judgment amount for infraction judgments imposed in Marion County for traffic violations shall be transferred to a dedicated county fund. It provides that money in the dedicated county fund: (1) does not revert to the county or state General Fund; and (2) may be used, after appropriation by the county fiscal body, only to pay compensation of a commissioner and pay costs of the county's guardian ad litem program.
- C. *Senior Judges* -- It provides that magistrates and Marion County commissioners who exercise the powers and duties of a magistrate who meet certain other criteria may be certified as special judges by the Judicial Nominating Commission. Current law provides for the certification of judges and justices.

Effective Date: (Amended) July 1, 2010; January 1, 2011.

Explanation of State Expenditures: (Revised) *Senior Judges*: This provision could increase the pool of

persons who would be eligible to work as senior judges. LSA does not know the number of retired Marion County court commissioners who might wish to become senior judges. The specific impact of adding these Marion County court commissioners as potential senior judges is not expected to affect the overall expenditures for senior judges.

Background: All courts may request a senior judge to assist with hearing cases, but Supreme Court rules limit the number of days that each court can use a senior judge. Courts with low workload as measured by the annual weighted caseload study may request a senior judge for a maximum of 10 days per year, while courts with the highest workloads may make unlimited use of senior judges.

Retired Marion County court commissioners would still have to apply to the Judicial Nominating Commission for certification as a senior judge (IC 33-27-4-1), a local court would have to request the Supreme Court for use of a senior judge (IC 33-23-3-1), and the Supreme Court would have to approve the request from a court for a senior judge and appoint the person to serve as a senior judge (IC 33-23-3-2). Senior judges may not be compensated for more than 100 days in a single year (IC 33-23-3-5). Funding for senior judges comes from appropriations to the Supreme Court.

The following table shows the number of days of service provided by senior judges between 2004 and 2008 in Indiana's trial courts.

Days of Service Worked By Senior Judges in Indiana's Trial Courts				
2004	2005	2006	2007	2008
3,788	3,401	3,291	3,462	3,251

Explanation of State Revenues: *Infraction Judgment -- Revenue Loss to State General Fund* – If the Marion County courts continue assessing the added \$35 for traffic infractions and the actual collection rates continue, LSA anticipates that annual revenues from Marion County would be in the range of \$2.1 M. As proposed, these revenues would no longer be deposited in the state General Fund but would be retained by Marion County. This would begin on January 1, 2011.

Background – Prior to 2004, Marion County courts routinely charged \$110 for each infraction. Beginning in July 2004, Marion County courts increased the total traffic ticket to \$150 by adding a \$40 Jail Bed Fee to pay for the cost of new jail beds.

When the Marion County Superior Court decided to implement the Odyssey Case Management System in 2008-2009, the Indiana Supreme Court's Judicial Technology Automation Project audited the business practices. During the analysis, the Supreme Court staff discovered that the Jail Bed Fee was not authorized by state law. Instead, the court's executive committee increased the infraction judgment to \$35 beginning in February 2009.

[Note: Marion County's courts have the discretion to reduce the amount charged for infraction judgements. The reduced infraction would also reduce the revenue currently to be deposited in the state General Fund.]

Explanation of Local Expenditures: Marion County would be permitted to pay for the costs of the court commissioners or the cost of the guardian ad litem fund from the newly created dedicated fund. The county fiscal body would appropriate the funds as needed.

Marion County estimates that it might need to pay \$1.5 M for guardian ad litem services for Children in Need of Services (CHINS). Marion County currently pays about \$2.33 M for 24 commissioners. These commissioners are hearing officers and will have the same powers as magistrates. Their average salary and benefits are \$93,187.

Explanation of Local Revenues: (Revised) *New Revenue for Marion County* – Revenue from the additional \$35 judgment for traffic infractions would be deposited into a new dedicated county fund that may be used after appropriation by the county fiscal body. Use of the funds would be limited to the following: (1) to pay the salaries of commissioners; and (2) to pay for Marion County's guardian ad litem fund. This money would not revert to the county fund or the state General Fund. This would begin on January 1, 2011.

State Agencies Affected: Division of State Court Administration, Indiana Supreme Court.

Local Agencies Affected: Marion County Circuit and Superior Courts.

Information Sources: Heather Welch, Marion Superior Court Civil Division #12; Mary Deprez, Director and Counsel for Trial Court Technology, Indiana Supreme Court.

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